

[0097] Each patent is described by at least one selection criteria, e.g. the representative arts the patent is concerned with. In Table 2, the class(es) represented by each patent is identified. In one embodiment, clients can search the database for patents in a pool of eligible assets from desired classes. In other embodiments, the database could store the entire abstract or a list of keywords pertaining to the patent, or other forms of searchable selection criteria. The database 801 could store an indication of whether or not a given patent meets the selection criteria desired by the client or clients. The database 801, in one embodiment, also stores an indicator for whether or not a privilege has been granted for each asset, as in Table 2, and the client receiving the privilege.

action position. All of these additional details, and others reasonably inferred by the teachings herein are anticipated by this invention.

Use of Qualified Assets

[0100] A client company with a “floating privilege” to a large patent portfolio has access to an impressive defensive arsenal that serves as a deterrent against unwanted litigation. The patent pool owner may choose to strengthen the deterrent value of the floating privilege by recording, in a publicly viewable repository, the company names of those clients in possession of floating privileges to one or more patent pools. Of course, the client may also choose to make their floating privilege known to the public through any of a variety of means, at their discretion.

TABLE 2

Asset Identifier	Status	Level of Value to Owner	First Pool	Second Pool	Representative arts	Privilege Granted?	Client receiving privilege
Patent 1 (P1)	Issued	Low	Yes	no	Class 1, class 2	Yes	Client A
P2	Expired	Low	No	No	Class 3	No	n/a
P3	Issued	Low	Yes	Yes	Class 2, class 3	Yes	n/a
P4	Abandoned	n/a	No	No	n/a	No	n/a
P5	Issued	High	No	No	Class 1, class 2	No	n/a
P6	Issued	High	No	No	Class 1, class 3	No	n/a
P7	Issued	low	Yes	yes	Class 2	No	Client A
P8	Issued	low	No	yes	Class 3	No	n/a
P9	Issued	low	Yes	no	Class 1, class 2	Yes	Client A
P10	Issued	low	No	yes	Class 3	No	n/a

Interests in Pool Assets

[0098] It is possible to consider many variations in the type of assignment to be made under a floating privilege agreement. In one embodiment, the assignment is a simple assignment that transfers the entire right, title and interest in a patent to the client, with no conditions on the assignment. In other embodiments various conditions can be imposed on the third party with the assignment. For example, the patent owner can reserve a right of reversion that runs with the assignment whereupon the patent is assigned back to the original patent owner upon concluding the litigation matter that triggered the exercise of the floating privilege. In still another embodiment, the owner of a patent pool can retain a nonexclusive license to the patent assigned to a client through the floating privilege agreement.

[0099] Other conditions and rules associated with a floating privilege may be agreed upon between the pool owner and the client. The company granting the privilege may retain the right to prevent the client from executing the privilege to obtain an interest in a patent if, for example, the transfer of rights to the patent would harm the granting company due to the circumstances surrounding the intended use. Other conditions can be agreed upon by the pool owner and the client. For example, a company may wish to restrict usage of an assigned patent, such as restricting the right to further sell the assigned patent to a third party, or further restricting the right to use the patent offensively against another client with an active floating privilege. A patent pool owner may extend a nonexclusive license to all patents in the patent pool for which the client has obtained a floating privilege, thereby further reinforcing the client's freedom of

[0101] An asset pool owner may optionally make available for additional fees various services relevant to a floating privilege. These services, for example, may include patent selection assistance, due diligence studies or the creation of proof packs for proving infringement of a patent. An asset pool owner may also choose to advertise the availability of floating privilege opportunities, or enlist the services of a broker in expanding the growth of clients utilizing the floating privilege service. This is not unlike an insurance broker offering various insurance policies underwritten by one or more insurers.

[0102] When the floating privilege is granted from a patent portfolio owner to a client for a set of qualified patents, in accordance with embodiments of the present invention, rights in the qualified patents are transferred from the patent portfolio owner to the client. In one embodiment, this transfer of rights is accomplished by an assignment of the rights. In another embodiment, the transfer of rights is accomplished by licensing the rights. When a floating privilege is terminated responsive to a terminating event, any rights transferred during the life of the floating privilege agreement are subject to possible reversion back to the granting party. However, in one embodiment, any rights that accrued during the life of the floating agreement are retained by the receiving party, unaffected by the termination of the floating privilege agreement.

[0103] One example of a dynamic factor exhibited by the patents in the portfolio is the status of the patent. In reference to Table 2, supra, the patent status may be “issued”, “expired” or abandoned. Patents that are “issued” are eligible for further consideration with respect to pool creation, whereas a patent status of “expired” or “abandoned” would preclude further consideration for use in a pool. An expira-